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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,148	08/22/2001	Srinivas Gutta	US010410	3373

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
CZEKAJ, DAVID J	
ART UNIT	**PAPER NUMBER**
2621	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/938,148	GUTTA ET AL.	
	Examiner	Art Unit	
	Dave Czekaj	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 November 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9 and 13-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9 and 13-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

On pages 2-5, applicant argues that the examiner has made no indication of a teaching in the prior art needed to combine the references and therefore lacks motivation. While the applicant's points are understood, the examiner respectfully disagrees. As disclosed in the previous action, Adrain teaches in column 1, lines 17-20, that prior art surveillance systems require users to monitor several displays causing the user to not give undivided attention to each monitor. Therefore Adrain discloses an apparatus to help overcome this problem in the prior art. Hence the combination of Courtney with Adrain is deemed proper. Therefore the rejection has been maintained.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Further, the secondary teaching, Adrain, was relied upon for disclosing an alarm as defined in the action. Providing an alarm after the condition of a fraudulent event is notoriously well known and is not based on the Examiner's own subjective belief and unknown authority. Providing an alarm is within the knowledge of a person of ordinary skill in the art and no affidavit is required for supporting this fundamental concept.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-3, 13, 14, 16, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Courtney (6424370) in view of Adrain (5831669).

As for Claim's 1, 2, 13, 16, 19 and 20, Courtney discloses an apparatus that relates to motion event detection (Courtney: column 1, lines 12-13). This apparatus comprises capturing an image of a patron in a monitored area (Courtney: figure 5, wherein the camera captures the image), establishing a rule defining a fraudulent event, the rule including one condition based upon observation in real time of a prior and present action of a patron (Courtney: column 7, lines 22-24, column 12, lines 26-29, column 12, lines 66-67, column 16, lines 1-2, wherein the rule is the rule defining a remover event), and processing at least one image to identify the condition (Courtney: column 12, lines 26-29). However, this apparatus lacks performing a defined action if the rule is satisfied. Adrain teaches that prior art surveillance systems require users to monitor several displays causing the user to not give undivided attention to each monitor (Adrain: column 1, lines 17-20). To help alleviate this problem, Adrain discloses performing a defined action if the rule is satisfied (Adrain: column 3, lines 35-45, column 4, lines 33-36, wherein the defined action is the alarm). Therefore, it would

have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Courtney and add the action taught by Adrain in order to obtain a more versatile apparatus by allowing a user to provide full undivided attention to the scene being monitored.

3. Claims 3, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Courtney (6424370) in view of Adrain (5831669) in further view of Gutta et al. (6744462), (hereinafter referred to as "Gutta").

As for claims 3, 14, and 17, note the examiners rejection for claim 1, and in addition, claims 3, 14, and 17 differ from claim 1 in that claims 3, 14, and 17 further require detecting when a patron exits a changing area wearing a different article of clothing. Gutta teaches that prior art surveillance systems provide a significant amount of false alarms due to entry/exit conflicts (Gutta: column 1, lines 33-36). To help alleviate this problem, Gutta discloses detecting when a patron exits a changing area wearing a different article of clothing than entered with (Gutta: figures 2-3, wherein the stored entrance and exit images are compared to determine similarities). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the system taught by Gutta in order to obtain an apparatus that will generate fewer false alarm conditions.

4. Claims 4-9, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Courtney (6424370) in view of Adrain (5831669) in further view of Cook (5895453) in further view of Iizaka (6654047).

As for Claim's 5-7, note the examiners rejection for claim 1, and in addition, claims 5-7 differ from claim 1 in that claims 5-7 further require monitoring a return without a receipt, the person has not previously been detected in the retail location, has been detected in an area of the retail location where the item is stocked or was not carrying the item when the person entered the retail location. Cook teaches that suspect transactions, such as returning an item with/without a receipt, need to be monitored (Cook: column 5, line 15 – column 6, line 10). Iizaka teaches past visit information that shows when and how often a person visits a retail store location (Iizaka: Column 9, lines 41-53; See also Figures 14A and 14B), Figures 14A and 14B also show in the column labeled D2 which camera picked the person up showing whether the person has been in the location where the item was stocked and finally Iizaka teaches cameras 5A and 5B that detect the entrance and exit showing whether the person entered the retail location with the item being returned. Since using cameras is only one method to further identify whether a person is truly returning an item they purchased in addition to other methods such as using computer equipment to track certain items bought by certain individuals, it would have been obvious to one of ordinary skill to use cameras with certain rules to identify falsely returned items because mostly all retail locations already have cameras in their stores.

As for Claim's 4, 15 and 18, Cook teaches where the fraudulent event is a person attempting to return an item without a receipt (Cook: Column 9, lines 26-31; See also Figure 12). Cook fails to specifically have monitoring equipment at the entrance in order to determine whether the patron returning the item entered with the item, but Iizaka and

Gutta do (Iizaka: Column 5, line 58 to Column 6, line 3; Gutta: figures 2-3). Since this monitoring equipment is just used to verify that the patron was in fact in possession of the returned object when entering the retail environment, it would have been obvious to one of ordinary skill because camera monitoring equipment is available at most all retail environments so a store would be able to use these cameras in order to determine if the patron was carrying the returned object when entering the store.

As for Claim's 8 and 9, Cook fails to teach where the processing step further comprises the step of performing a face recognition and feature extraction analysis on the image, but Iizaka does (Iizaka: Column 5, lines 33-43). Since using cameras is again only one method to further identify whether a person is truly returning an item they purchased in addition to other methods such as using computer equipment to track certain items bought by certain individuals that would be identified at the register, it would have been obvious to one of ordinary skill to use cameras in order to detect and identify the person prior to the individual approaching the register because mostly all retail locations already have cameras in their stores.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Czekaj whose telephone number is (571) 272-7327. The examiner can normally be reached on Mon-Thurs and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DJC

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TC 2600